

Application of Danny L. BEASLEY, et al.
Serial No. 09/683,582
Filed: January 22, 2002
Reply to Office Action of October 11, 2005

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the present amendment and in light of the following discussions, is respectfully requested.

Claims 1-27, 29-42 and 45 are currently pending in the application. Claim 44 has been canceled by the present amendment without disclaimer. In fact, claim 44 is being added to U.S. Patent Serial No. 11/129,443 for further consideration. Claim 45 has been added and is similar to claim 37 but depends on claim 29 instead of claim 27. Thus, the addition does not introduce any new matter.

In the outstanding office action, claims 1, 27 and 29 were rejected under obviousness-type double patenting in view of claims 1-8 of U.S. Patent No. 6,345,323; claims 1 and 44 were rejected under obviousness-type double patenting in view of claims 1-17 of U.S. Patent No. 6,112,264; claims 1 and 44 were rejected under obviousness-type double patenting in view of claim 1 of U.S. Patent No. 5,884,096 (hereinafter "the '096 patent"); claims 1, 27, 29 and 44 were rejected under obviousness-type double patenting in view of claim 8 of U.S. Patent No. 5,721,842 (hereinafter "the '842 patent"); and claim 44 was rejected under 35 U.S.C. 102(e) as being anticipated by Perholtz et al. (U.S. Patent No. 5,732,212).

In response to the rejections of claims 1, 27 and 29 and claims 1 and 44 under obviousness-type double patenting in view of claims 1-8 of U.S. Patent No. 6,345,323 and claims 1-17 of U.S. Patent No. 6,112,264, respectively, it is respectfully submitted that obviousness, patentability, validity and many other legal patent tests are based on a review of all the claim elements taken together and not simply a review of isolated portions of a claim.

Nonetheless, those rejections are now moot in light of the terminal disclaimer filed herewith. The filing of a terminal disclaimer is done in order to expedite prosecution and

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is not an admission of the propriety of the rejection. Applicant files the terminal disclaimer in reliance on MPEP 804.02(I) which states in pertinent part:

The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

Thus, in this case, as in *Quad*, the terminal disclaimer should not be considered to raise any presumption or estoppel.

In response to the rejection of claims 1 and 44 and claims 1, 27, 29 and 44 under obviousness-type double patenting in view of claim 1 of the '096 patent and claim 8 of the '842 patent, respectively, those rejections are respectfully traversed for at least the reasons set forth below. In order to support the asserted obviousness-type double patenting rejection, the office action must prove that the pending claims are obvious over the previously issued claims. However, the office action has only made a general comparison of a subset of the claim language and has not made a sufficiently detailed comparison to actually account for patentable distinctions between the claim language of the pending and issued claims.

First, pending claim 1 is patentably distinct from claim 1 of the '096 patent. In addition to other elements not found in claim 1 of the '096 patent, pending claim 1 recites "computer-side connectors including plural computer-side user input device connectors

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and plural computer-side video connectors for simultaneously physically connecting to independent, dedicated cables of respective user-input device inputs and analog video outputs of plural computers.” The office action has not proven that such independent, dedicated cables are obvious over the claimed connection configuration in claim 1 of the ‘096 patent.

Second, pending claim 1 also recites “a first analog video receiving circuit ... and a first analog video processing circuit.” Claim 1 of the ‘096 patent does not recite such analog circuitry, and the office action has not proven that such analog circuitry is obvious over the circuitry in claim 1 of the ‘096 patent. In fact, Applicant previously received (in an office action mailed August 25, 1999) a double-patenting rejection in U.S. Patent No. 6,112,264 (for which a terminal disclaimer is being filed herewith) over the ‘096 patent. In response to that rejection, Applicant argued, and the PTO accepted, that the analog elements of the claims of the ‘264 patent made the ‘264 patent patentably distinct from the ‘096 patent. Thus, while the pending language of claim 1 is not the same as the language in the ‘264 patent, precedent exists for finding that the analog circuitry of pending claim 1 is non-obvious over claim 1 of the ‘096 patent.

Pending claim 1 is also patentably distinct from claim 8 of the ‘842 patent. As discussed above, claim 1 recites “computer-side connectors ... for simultaneously physically connecting to independent, dedicated cables of respective user-input device inputs and analog video outputs of plural computers,” and “a first analog video receiving circuit” and “a first analog video processing circuit.” Such elements are not rendered obvious by claim 8 of the ‘842 patent for reasons analogous to the reasons set forth above for claim 1 of the ‘096 patent.

Similarly, pending claim 27 recites separate links that are not obvious over claim 8 of the ‘842 patent. Claim 27 recites “a first communication link coupled to the first

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signal conditioning device for carrying information corresponding to the received first set of electronic signals” and “an analog video link for coupling the crosspoint switch to a computer monitor associated with the user-input device.” Such links are patentably distinct from the configuration of claim 8.

Claim 27 also recites a specific analog configuration not rendered obvious by claim 8 of the ‘842 patent. Claim 27 recites “the plurality of second signal conditioning devices receiving analog video signals produced by the remote computer systems and transmitting the analog video signals to the crosspoint switch; and an analog video link for coupling the crosspoint switch to a computer monitor associated with the user-input device, wherein the first signal conditioning device further receives a second set of electronic signals, produced by the user-input device, via the first communication link for controlling the crosspoint switch to select the analog video signals of one of the remote computer systems for display on the computer monitor.” Such an element is not rendered obvious over the ‘842 patent as is evidenced by the withdrawal of the double patenting rejection during the prosecution of the ‘264 patent. Thus, the double patenting rejection of claim 27 should be withdrawn.

Claim 29 is also patentably distinct from claim 8 of the ‘842 patent. Claim 29 recites “the plurality of second signal conditioning devices receiving analog video signals produced by the remote computer systems and transmitting the analog video signals to the crosspoint switch.” Such an element is not rendered obvious over the ‘842 patent as is evidenced by the withdrawal of the double patenting rejection during the prosecution of the ‘264 patent. Thus, the double patenting rejection of claim 29 should be withdrawn.

As to the rejections of claim 44, those rejections are moot in light of the cancellation of claim 44.

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Consequently, in view of the present amendment and in light of the above discussions, the outstanding grounds for rejection are believed to have been overcome and in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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